



United States
Department of
Agriculture

INFORMATIONAL MEMORANDUM IS-07-011

Risk
Management
Agency

TO: All Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

1400 Independence
Avenue, SW
Stop 0801
Washington, DC
20250-0801

FROM: William J. Murphy /s/ *William J. Murphy* 11/01/2007
Deputy Administrator for Insurance Services

SUBJECT: Financial Penalties for Loss Adjuster Licensing Violations

BACKGROUND:

The Standard Reinsurance Agreement (SRA), effective beginning with the 2005 reinsurance year, introduced the requirement that all loss adjusters must be licensed by the State in which they adjust losses, if the State requires licensing. When the State loss adjuster licensing provision was incorporated into the SRA, it was envisioned that State departments of insurance (DOI) would work with the Risk Management Agency (RMA) to develop a national certification program specifically for crop insurance loss adjusters. During subsequent meetings with State DOIs, it became evident that other priorities for the States had emerged that have diminished the feasibility for the timely development of a nation-wide crop insurance testing and certification program.

Approved insurance providers (AIPs) have expressed difficulty in complying with this obligation until the 2007 reinsurance year because, in certain States, crop loss adjuster licensing requirements were either ambiguous or demanded proficiency in unrelated property and casualty topics. Neither reason excused compliance with the State licensing requirement. As a result, for the 2005 and 2006 reinsurance year, RMA's Office of Compliance identified loss adjusters who were not properly licensed. For the 2007 reinsurance year, AIPs advised RMA that they have taken corrective actions to ensure compliance with loss adjuster licensing requirements.

ACTION

Section IV.H.6 of the SRA provides for the denial of reinsurance on all policies for which the loss adjuster is not properly licensed and the AIP allowed such loss adjusters to act on their behalf. However, the SRA also provides an alternative to the denial of reinsurance.

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The Risk Management Agency Administers
And Oversees All Programs Authorized Under
The Federal Crop Insurance Corporation

An Equal Opportunity Employer

Section IV.H.8.a of the SRA authorizes the Federal Crop Insurance Corporation (FCIC) to impose a financial penalty of up to 5 percent of net book premium on eligible crop insurance contracts for cases in which the AIP has failed to comply with a requirement of the SRA during the claims process, but for which the monetary value of such a failure is difficult to determine. (Refer to Exhibit A.)

RMA has determined that it will assess a penalty on AIPs of 5 percent of net book premium for all eligible crop insurance contracts for the 2005 and 2006 reinsurance years for which a claim was adjusted by an adjuster who was not properly licensed.

For the 2007 and subsequent reinsurance years, AIPs remain prohibited from using unlicensed loss adjusters and the use of such loss adjusters will subject the AIP to a denial of reinsurance for all claims adjusted by such loss adjusters in accordance with section IV.H.6 of the SRA.

DISPOSAL DATE:

This Informational Memorandum is for the purpose of transmitting information and the disposal date is December 31, 2007.

Exhibit A.

Standard Reinsurance Agreement

SECTION IV. GENERAL PROVISIONS

H. Compliance and Corrective Action

8. The Company provides valuable program delivery services for which payment is made in the form of A&O subsidy. FCIC and the Company agree that FCIC is damaged by a failure of the Company or its service providers, agents, and loss adjusters to provide services or to comply with a provision of this Agreement or procedures, and that the value of such service or failure to comply is difficult to determine because the damages are uncertain and the amount of service or failure to comply is difficult to quantify. FCIC and the Company agree that in view of the difficulty of determining the value of such service, the amounts stated below are reasonable estimates of the value. In the event there is a pattern or practice of failing to comply with the Agreement or procedures and FCIC has determined the Company or its service providers, agents, and loss adjusters has failed to provide services or to comply with a provision of this Agreement or procedures and such failure has occurred:
 - a. During the claims process (such as loss adjustment, quality control reviews, verification of applicable information, etc.), the Company agrees to pay FCIC an amount up to 5 percent of the net book premium on all crop insurance contracts affected by the failure based on the materiality or severity of the failure;

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